IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R.No. 5645 of 2006 (O&M)
Date of decision : 30.10.2006

Jarnail Singh

.....Petitioner.

Versus

Jagtar Singh & Ors.

.....Respondents.

CORAM : HON'BLE MR. JUSTICE VINOD K. SHARMA

Present : Mr.Binderjit Singh ,Advocate
for the petitioner.

****

VINOD K. SHARMA,J.(ORAL)

C.M. NO. 21590-CII of 2006 :

For the reasons stated in the application, delay in refiling the civil revision is condoned.

C.R.No. 5645 of 2006 :

The present revision petition has been filed against the order dated 5.5.2006 passed by the learned Additional Civil Judge (Sr. Divn.), Phul vide which the application filed by the petitioner under Order 6 Rule 17 of the Code of Civil Procedure for amendment of the written statement has been dismissed.

It is not in dispute that the petitioner in the written statement has admitted that he has entered into an agreement to sell with the plaintiff. After lapse of period of ten months the petitioner came up with a plea that in fact the plaintiff had got engaged counsel on behalf of the petitioner who filed a written statement admitting the claim of the plaintiff therein and,

therefore, a fraud was played on him which needed to be corrected by way of amendment application. It is not in dispute that the power of attorney as well as written statement were signed / thumb marked by the petitioner and he continued appearing for ten months before moving application for amendment and, therefore, the learned Courts were of the view that by way of amendment the petitioner is changing the whole nature of the case, hence, withdrawing the admissions made which could not be allowed. Thus, dismissed the application moved under Order 6 Rule 17 C.P.C. The learned counsel for the petitioner has placed reliance on the judgment of this Court in the case of ***United India Insurance Co. Ltd. Vs. Smt. Man Bhar and Others*** 2006(1) P.L.J. 161 to contend that a party is allowed to withdraw the admission and it is a question of fact whether the admission is withdrawn or not.

I have gone through this authority and it is not applicable to the present case as in the present case it is admitted case that the petitioner himself admitted that the earlier written statement was filed by the counsel admitting the claim of the plaintiff. Thus, it is a clear case of admission made which is sought to be withdrawn. The learned counsel for the petitioner thereafter contended that in the present case the agreement has also to be proved against defendants No. 2 & 3 and, therefore, in this situation the petitioner has also a right to get his written statement amended to contest the same. I fear, this contention cannot be accepted as admissions made cannot be allowed to be withdrawn unless it is proved that the same are erroneous made or made under bona fide mistake. But in the present case, it is admitted case that the written statement and the power of attorney

were signed by the petitioner and thereafter the written statement was filed by the counsel who was engaged by the petitioner.

Accordingly there is no merit in the present petition.

Dismissed.

October 30,2006 **(VINOD K. SHARMA)**
'sp' **JUDGE**